

IN THE 6  
**United States**  
**Circuit Court of Appeals**

FOR THE  
**Ninth Circuit**

In the Matter of the Petition  
of Hosaye Sakaguchi, for a  
Writ of Habeas Corpus.

No. 3712-----

Appeal from the United States District Court  
for the Western District of Washington.  
Northern Division.

Hon. Edward E. Cushman, Judge.

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**BRIEF OF APPELLANT**

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**STATEMENT OF THE CASE**

The facts involved in this appeal are simple. The Appellant arrived at the Port of Seattle late in 1919, and was found to be afflicted with hookworm, and upon petition of her husband, was granted medical treatment, and thereafter her cure was certified by the proper medical authorities.

A further hearing was had before a Board of Special Inquiry on January 26, 1920, and the Appellant refused a landing. The case was

opened, and a final hearing had February 27, 1920, and the Appellant was again adjudged likely to become a public charge and ordered returned to Japan.

Appeal was taken to the Secretary of Labor, and after a considerable delay the order of the Board of Special Inquiry was affirmed, and Appellant again denied admission.

A petition for a Writ of Habeas Corpus was filed, and an Order to Show Cause Why the Writ Should not be Granted served upon the Commissioner of Immigration at the Port of Seattle, and upon hearing, the rule was discharged and the writ denied. Appeal was taken to this Court, and the case comes here upon the Immigration Record filed as a part of the return to the Order to Show Cause. This record has not been printed, but sent up as an exhibit.

To avoid repetition, we omit any statement of the testimony, as it will appear in the course of argument.

The two leading questions are: Was the Board of Special Inquiry properly constituted, and if so, was there any testimony to support or justify the finding of the Board that the Appellant was likely to become a public charge.

## ASSIGNMENTS OF ERROR

### I.

The said Court erred in holding and adjudging that the Board of Special Inquiry which

passed upon the right of said petitioner to enter the United States was legally constituted.

## II.

The Court erred in holding and deciding that petitioner, Hosaye Sakaguchi, had a fair and impartial trial before the Board of Special Inquiry and before the Secretary of Labor.

## III.

The Court erred in holding and deciding that the petition for writ of habeas corpus herein be dismissed, and the writ of habeas corpus be denied and refused.

## IV.

The Court erred in holding and deciding and adjudging that the petitioner, Hosaye Sakaguchi, be remanded to the custody of Henry M. White, as United States Commissioner of Immigration for the Port of Seattle, for execution of the order of sentence of deportation.

## V.

The Court erred in deciding, holding and adjudging that the Board of Special Inquiry was justified in finding and holding that petitioner, Hosaye Sakaguchi, was likely to become a public charge.

## ARGUMENT

### WAS THE BOARD OF SPECIAL INQUIRY LEGALLY CONSTITUTED?

The Board of Special Inquiry which entered the final finding now in question, was composed of two officials of the United States, towit, two Immigration Inspectors and one stenographer or clerk.

Section 17 of the Immigration Statute of February 5, 1917, Fed. Stat. Anno. Supp. of 1918, page 228, provides:

“That Boards of Special Inquiry shall be appointed by the Commissioner of Immigration or Inspector in charge at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of the law. Each Board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall from time to time designate as qualified to serve on such Boards. When in the opinion of the Secretary of Labor the maintenance of a permanent Board of Special Inquiry for service at any sea or land border port is not warranted, regular constituted Boards may be detailed from other stations for temporary service at such port, or, if that be impracticable, the Secretary of Labor shall authorize the creation of boards of Special Inquiry by the Immigration Officials in charge at such ports, and

shall determine what Government Officials or other persons shall be eligible for service on such boards."

No showing appears in the record of the proceedings in the Immigration Office which affords any excuse for the presence on the Board of the clerk or stenographer member. No contention was made in the Trial Court that there were not sufficient officials at the Port of Seattle to make up a Board of Special Inquiry, and no showing was made that the clerk or stenographer member had been specially authorized or detailed to act upon the Board. Indeed it is the Appellant's contention that if any such designation had been made, either by the Commissioner General of Immigration, the local Commissioner or the Secretary of Labor, it would be without warrant of law, unless it should further appear that there were not sufficient qualified Immigrant Officers stationed at the Seattle Immigration Office to make up a Board. The statute which we have quoted fully bears out our contention.

Manifestly, when the section of the statute which we have printed above is carefully read, it will appear that it was in the contemplation of Congress that at the larger ports of the country the personnel of Boards of Special Inquiry should be confined to Immigrant Officials, but that at the smaller ports, where a sufficient number of such officers can not be had, they may either be detailed from other stations or persons outside official circles may be designated to serve.



No showing was made for the reason that none could be made. At the Port of Seattle Immigration Station a large number of Inspectors are employed, enough to constitute several Boards of Special Inquiry, and it was not contended that there was any necessity for the employment of the clerk member. On the contrary, the Government stood upon the ground that no such showing was necessary, and insisted upon the legal qualifications of such clerk or stenographer member. We submit that this did not constitute a legal Board.

*U. S. vs. Redfern*, 180 Fed. 500.

The statute uses the term "officer." A stenographer or clerk is not an officer. A cognate question arose in the case of *State vs. Mason*, 55 N. E. 167, where it was held that a pension agent's clerk is not an official of the United States so as to disqualify him for membership in the State legislature.

A clerk in the office of the Supervisor of Internal Revenue, appointed or employed under Section 3160, Revised Statutes, is not an officer of the United States and as such required to take the oath of office prescribed by Section 1756, R. S. U. S.

*Hedrick vs. U. S.*, 16 Ct. Claims Rep., page 88-100.

*U. S. vs. Schlierholz*, 137 Fed. 616.

*Martin vs. U. S.*, 168 Fed. 198.

*U. S. vs. Haas*, 167 Fed. 211.

If the Board was illegally constituted, as we contend it was, it was without power to hear or



determine the matter, and such situation sets the whole matter at large, and the Court will determine the status of the petitioner upon the record, both as to law and fact.

*U. S. vs. Smith*, 124 U. S. 525; 31 L. Ed. 534.

It will be observed from a reading of the proceedings before the Board of Special Inquiry, that the finding of irregularities in Appellant's passport, and the finding that she was likely to become a public charge, was made by a majority of the Board, composed of one properly qualified official and the other the clerk or stenographer member. If our contention is correct, this vitiates the proceedings.

#### DID APPELLANT HAVE A FAIR TRIAL?

The ruling of the Board of Special Inquiry upon the regularity of the passport is rather difficult to understand. The first Board of Special Inquiry, after hearing the evidence, held that Appellant had no valid passport.

The authority of the Board of Special Inquiry to sit as a Court of Error and Appeal and review the issuance of the passport is not apparent. The passport was conceded to be regular upon its face, and it is respectfully suggested that any errors or misrepresentations entering into procurement of the passport are to be corrected and adjusted by the issuing authority. The Appellant had either a genuine or a spurious passport. It is admitted to be genuine. That makes it binding upon the public authorities of this country in all respects to the

extent to which it is binding. It does not give the right to any officer, or set of officers, to correct any errors or review any misrepresentations which may have led to its issuance. The issuing authority is the one competent to deal with such questions. Clearly the action of the Board with reference to the passport was arbitrary and unusual, and so far beyond the power and duties of the Board of Special Inquiry as to show most clearly that the rights of Appellant did not receive at the hands of a majority of such Board the fair and unprejudiced consideration to which she is entitled.

### IS THE APPELLANT LIKELY TO BECOME A PUBLIC CHARGE?

The testimony adduced at the several sessions of the Board of Special Inquiry, and upon which the Board acted, may be fairly summarized as follows:

The Appellant is a married woman, a subject of the Emperor of Japan, was sent for by her husband, and came to the United States with a passport regular on its face, and being found, upon medical examination, to be afflicted with hookworm, was, upon her husband's application, accorded medical treatment, and certified by the proper authorities to have been cured. When the hearing was resumed, after such cure, it was found that the husband, owing to some differences with Appellant's sister and brother-in-law, had experienced a change of heart and refused to receive Appellant. Appellant's brother-in-law, Horikawa, has a pros-

perous hardware business in the City of Seattle, paying Income Tax for the year 1918 in the sum of \$25.75, and for the year 1920 (evidently a clerical error for 1919) of \$39.19.

Mr. and Mrs. Horikawa were willing, ready and able to receive Appellant and provide for her. So far as it appears, the Appellant's husband is able bodied and capable of earning a living. There is no suggestion of bad health on the part of either the husband or the Appellant. The marriage is undisputed.

There is also evidence of the ability of Appellant to earn her own living, either in domestic work or as a seamstress. She has been temporarily landed in the country for more than a year and there is no evidence of her being in want or of being a charge or burden on anybody. The character of her brother-in-law, Mr. Horikawa, as well as his financial ability, is amply vouched for by leading business houses of Seattle.

For the convenience of the Court, we print the actual testimony taken, as an appendix to our brief.

We concede the rule to be that if there is evidence of probability of becoming a public charge, the finding of the Board of Special Inquiry affirmed by the Secretary of Labor is binding upon the Courts, provided the record shows evidence of such probability. There must, however, be evidence in some shape of circumstances indicating a fair probability that

the applying immigrant will become a charge upon the public.

The language of the statute is: "Persons likely to become a public charge."

This is synonymous with the language used in the State statute regarding removal proceedings. The expression there used is "likely to become chargeable."

This statute was given a construction by the Court of Last Resort in Maine, in the case of *Inhabitants of Cornish vs. Inhabitants of Parsonfield*, 22 Maine 433, and the Court in that case said, speaking of the statute:

"Does not apply to persons who may be likely to become chargeable at some future and yet uncertain time, but authorizes their removal only when the fact that they are likely to become chargeable would not depend upon a contingency but upon an ascertained necessity."

In *Vohs vs. Shorthill*, 130 Iowa 538, 107 N. W. 417, likely is defined as "probable or reasonably to be expected." The Standard Dictionary defines likely as "reasonable expectation."

In *ex parte Mitchell*, 256 Fed. 229, the Court holds that a mere possibility of an alien becoming at some indefinite time in the future a pauper and incapable of self-support, does not sustain a finding by the Immigration authorities of "likely to become a public charge."

It is held that the mere possibility of the alien losing means of support does not warrant such finding and subsequent deportation.

The legality of the marriage is not questioned. The relation of husband and wife exists, and the husband can not divest himself of his responsibility by his personal act of renouncing his wife. The husband is domiciled in the State of Washington, and that State has a statute upon this subject, which reads as follows:

“Section. 1. Every person who, . . . . . having sufficient ability to provide for his wife’s support, or who is able to earn the means for such wife’s support, who wilfully abandons and leaves his wife in a destitute condition, or who refuses or neglects to provide such wife with necessary food, clothing, shelter, or medical attendance, unless by her misconduct he is justified in abandoning her, shall be guilty of a gross misdemeanor.

“Section 2. In any case numerated in the previous section, the Court may render one of the following orders:

“1st. Should a fine be imposed it may be directed by the Court to be paid in whole or in part to the wife, or to the guardian, or to the custodian of the child or children or to an individual appointed by the Court as trustee.

“2nd. Before trial, or after conviction, with the consent of the defendant, the Court, in its discretion, having regard to the circumstances and to the financial ability or earning capacity of the defendant, shall have the power to make an order, which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly during such time as the Court may



direct, to the wife or to the guardian, or custodian of the minor child or children, or to an individual appointed by the Court, and to release the defendant from custody or probation during such time as the Court may direct, upon his or her entering into a recognizance, with or without sureties, in such sum as the Court may direct. The condition of the recognizance to be such that if the defendant shall make his or her appearance in Court whenever ordered to do so, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise to remain in full force and effect."

"3rd. Where conviction had and sentence to imprisonment in the county jail is imposed, the Court may direct that the person so convicted shall be compelled to work upon the public roads or highways, or any other public work, in the county where such conviction is had, during the time of such sentence. And it shall be the duty of the board of county commissioners of the county where such conviction and sentence is had, and where such work is performed by persons under sentence to the county jail, to allow and order the payment, out of the current fund, to the wife, or to the guardian, or the custodian of the child or children, or to an individual appointed by the court as trustee, at the end of each calendar month, for the support of such wife, child, or children, ward or wards, a sum not to exceed one and fifty one-hundredths dollars for each day's work of such person."—Washington Session Laws of 1913, page 71.

The sister of Appellant is liable for Appel-

lant's support. See Sec. 8375, Rem. & Bal. Code, which reads as follows:

“Relatives to Support Poor, When: Every poor person who shall be unable to earn a livelihood in consequence of bodily infirmity, idiocy, lunacy, or other cause shall be supported by the father, grandfather, mother, grandmother, children, grandchildren, brothers, or sisters of such poor person, if they or either of them be of sufficient ability; and every person who shall fail or refuse to support his or her father, grandfather, mother, grandmother, child, grandchild, sister, or brother, when directed by the Board of Commissioners of the County where such poor person shall be found, whether such relative reside in the county or not, shall forfeit and pay to the county, for the use of the poor of their county, the sum of thirty dollars per month, to be recovered in the name of the County Commissioners for the use of the poor as aforesaid, before any justice of the peace or any court having jurisdiction; Provided, that when any person becomes a pauper from intemperance or other bad conduct, he shall not be entitled to any support from any relation except parent and child.”

We submit that a reading of the record of the proceedings in the Immigration office can not fail to convince this Court that the Board of Special Inquiry acted arbitrarily and gave no consideration whatever to the evidence, and that the evidence does not, in the slightest particular, substantiate or support or justify the finding that the Appellant is likely to become a public charge.



While it is true that the Courts do not sit as triers of fact, they do scan the record to determine whether or not there is any evidence to support to Board's findings.

*Gegiow vs. Uhl*, 239 U. S. 3; 60 L. Ed. 114.

*Pazos vs. Redfern*, 180 Fed. 500.

*U. S. vs. Martin*, 193 Fed. 795. ~~338~~

*Spraung vs. Martin*, 182 Fed. ~~230~~.

*U. S. vs. Nakashima*, 160 Fed. 842.

*U. S. vs. Suekichi*, 199 Fed. 751.

*Katz vs. Commissioner of Immigration*,  
245 Fed. 316.

It is respectfully contended:

(a) That the Board of Special Inquiry was not legally constituted as we have shown above.

(b) That the Board of Special Inquiry was without jurisdiction to determine the regularity of Appellant's passport.

(c) That the finding of a majority of the Board of Special Inquiry, to the effect that Appellant is likely to become a public charge, is utterly without support in the evidence, but that the evidence is all the other way, and establishes the ability of Appellant to support herself as well as the legal liability of her husband and her sister to support her, and that the judgment and order of the Trial Court should be reversed, with directions to grant the Writ of Habeas Corpus and discharge the Appellant.

Respectfully submitted,

JAMES KIEFER,

*Attorney for Appellant.*

## APPENDIX TESTIMONY

Case No. 37235/4-8.

In re case of SAKAGUCHI, Hosaye, f., 24.

Ex SS AFRICA MARU, 12-23-19.

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### U. S. DEPARTMENT OF LABOR Immigration Service

Seattle, Wash., January 26, 1920.

At a meeting of the Board of Special Inquiry,  
convened pursuant to the instructions of the  
Commissioner, composed of

*Inspectors:*

B. A. Hunter, Chairman,  
T. L. Wyckoff.

*Stenographer and Member:*

Wilbur F. Patterson.

*Interpreter:*

K. Okajima.

(C. Fujii, being sworn, testified as follows:)

(Chairman) Q. What is your name?

(Witness) A. C. Fujii.

Q. What is your occupation?

A. Hotel proprietor.

Q. Are you familiar with the case of Sakaguchi, Hosaye, applicant for admission to the United States?

A. Yes.

Q. What testimony do you wish to offer?

A. Well, Mr. Sakaguchi called me up Saturday morning. He asked me; "Mr. Fujii, my wife in Detention House. She got released today hookworm. She cannot get out of Detention House before I go to get her;" and I tell him, "Mr. Sakaguchi, what is the reason?" "My brother-in-law, he tried to get her out Detention House this morning. He didn't ask me any, so if she cannot get out house for my brother-in-law I like. I got to meet her." Another thing, he asked if I will send her back to Japan and if she at house was any trouble to send her back to Japan. So I told, "What the reason was he tried to send her back to Japan." He said, "I do not think any good was brother-in-law Mr. Horikawa. I do not think he satisfied with my home for my wife." I said, "Why?" "He done me very bad now. I was working for Mr. Horikawa last year; and after she arrived in Seattle, detained for hookworm treatment, then Mr. Horikawa fired me out last December very bad. So I do not think he like any more me." So, well, I told, "I do not know anything about it. You go see Immigration officer. Mr. Okajima down there. You can explain to him." "Well, another thing, I heard she was to Vancouver once. I did not know about before but I found now she

was in some trouble when she was at Vancouver. Her husband send her back to Japan, so I am afraid the same trouble." Then I told him, "You go see Mr. Okajima, interpreter, I cannot say any more." So he said, "Telephone to Mr. Okajima, Immigration Office, on subject, 'Wait till I come up. Do not let she out in the house'." So, I called up Immigration office and talked to Mr. Okajima on phone, "Please hold Mrs. Sakaguchi until Mr. Sakaguchi gets there." That is all I can say.

(Interpreter used.)

(Kuinobuemon Sakaguchi, being sworn, testified as follows:)

Q. What is your name?

A. Sakaguchi.

Q. What is your first name?

A. Kuinobuemon.

Q. Who is this woman sitting over here (indicating applicant)?

A. My wife.

Q. Is she your proxy wife?

A. Yes.

Q. Why did you send to Japan to have her come here?

A. Well I send for her without knowing what I have found within the last few days.

Q. When were you married to her?

A. January, last year, year ago.

Q. Who arranged this marriage?

A. Mr. Horikawa Komakichi.

Q. Where does he live?

A. 417 Maynard Avenue, Seattle.

Q. Is he related to either you or your proxy wife?

A. Mr. Horikawa? He is the husband of this woman's sister.

Q. Who furnished the money for her to come here?

- A. Mr. Horikawa did.
- Q. Did you put up any of that money yourself?
- A. No, everything himself.
- Q. The other day here at the first hearing, you expressed a willingness to take her as your wife. Why have you changed your mind since then?
- A. Yes, I was willing at that time to receive her, but later on I found out she was in Vancouver, B. C., and had trouble when she was married before. I decided not to take her.
- Q. How did you find out she had been to Vancouver?
- A. Her sister said that, Mrs. Horikawa.
- Q. Is there any other reason why you should not receive her as your wife?
- A. No other reason.
- (Inspector Wyckoff) Q. What was the nature of the trouble that your wife was in at Vancouver, that you heard about?
- A. The trouble was that she ran away from her husband.
- Q. Where did she go when she ran away? What did she do?
- A. All that I heard was that Mr. and Mrs. Horikawa went to Vancouver and arranged for her to go back to Japan.
- Q. Were any of her actions improper?
- A. I heard that.
- Q. Just tell what you heard.
- A. I heard that she ran away from her husband, saying that he was too old and went with another man; therefore, I do not like to have her.
- Q. Who told you that?
- A. I heard a man that came on the same boat, a Japanese man.
- Q. What was his name?
- A. You can examine her and you know the truth.

(Applicant takes stand and is reminded that she is under oath to tell the truth. She testifies as follows:)

(Chairman) Q. You have heard the testimony of this man whom you came here to marry. What have you got to say about it?

A. Yes, I heard him, what he said, but I do not want to go back. I want to live with him and stay in the United States.

Q. Did you live in Vancouver, B. C.?

A. No, I never was there.

Q. Did you hear him state that your sister had said—that she told him—that you had been in Vancouver and had trouble with your husband there?

A. Well, my sister got hysterics, kind of crazy. You cannot depend on what she says. When she came to see me here at the Detention House, she told me Mr. Sakaguchi very unkind to her husband and acted very unkindly sometimes and borrowed money from her husband and would not return it at all. Sometimes he goes out and tells to other people many bad things about my sister and her husband, so my sister and he cannot get along. They were having some kind of trouble. But, as to my being in Vancouver, what he says is not true.

Q. Do you think that your sister actually said that?

A. I cannot say one way or the other. I do not know what to say about it. She may have said, and she may not. I do not know.

Q. What is the matter with your sister?

A. No question what is the matter with her. My sister has hysterics after giving birth to a child. She is still in bad condition. I do not know what to say about her. She isn't well at all.

(Horikawa Komakichi, being sworn, testified as follows:)



- Q. What is your name?  
A. Horikawa Komakichi.  
Q. What is your business?  
A. I have hardware store, 417 Maynard Street.  
Q. Who is this woman sitting over in the corner?  
A. My sister-in-law.  
Q. Describe the circumstances under which she came to this country.  
A. She came as the wife of Sakaguchi.  
Q. Describe the circumstances under which she came.  
A. I and Mr. Inuoye Kametaro. in Japan, acted as go-between and arranged their marriage, I acting for Sakaguchi and he acting for her in Japan. So she came.  
Q. Who paid her way to come here?  
A. Sakaguchi paid.  
Q. Sakaguchi said he did not pay anything. How about that?  
A. He paid out of wages by working for me. I advanced the money for him to send it to Japan.  
Q. How long did Sakaguchi work for you?  
A. He worked for me three years ago for about two month. He was learning business, so I didn't pay him very much. Then August, last year, he came back to me and has been working for me since.  
Q. Did you give him a letter of recommendation?  
A. Yes.  
Q. Is this the letter?  
A. Yes, I signed it myself.  
Q. Do you know whether or not this woman has ever been in Vancouver?  
A. She was in Victoria.  
Q. How long?  
A. About seven months, I think.  
Q. Was she married?



- A. Yes, she went there to join her husband.
- Q. She went back to Japan?
- A. Yes.
- Q. Why did she go back to Japan?
- A. Her former husband was not the right kind. He treated her very cruelly. Rev. Mr. Osawa found it out and protected her and placed her in a Japanese woman's home there. The result was that we thought she should go back to Japan rather than live with that man. You can ask Mr. Osawa. He will testify to the same.
- Q. Do you know what her former husband's name was?
- A. No, I have forgotten his name, but his family name is Matsumura.
- Q. Sakaguchi has now refused to receive this woman as his wife. What action do you propose now.
- A. I would like to ask you first to let her come to the United States, as I promise and guarantee that I will take care of her, being my sister-in-law, I can take care of her without any trouble.
- Q. In the beginning of this arrangement, were you acting in good faith in bringing her here as the wife of Sakaguchi?
- A. Yes.
- Q. Well what has caused this trouble now?
- A. Until a few days ago, I did not know that Sakaguchi is such an unworthy man. I thought he was all right. But a few days ago, I found that he goes around, borrows money from different friends of mine and spent it and acted very funny. I think some devil has got hold of him and that is the trouble.
- Q. Did you ever entrust him with your business?
- A. Yes, I did.

Q. Did he handle it satisfactorily while you were away?

A. Yes, he did.

Q. Where were you, and how long did he handle your business?

A. About four months, I was away, and he took care of my business. I was traveling for my business, sometimes Tacoma, other times Portland, and other places.

(Inspector Wyckoff) Q. Sakaguchi repaid you the money you advanced to send to his wife in Japan?

A. Not yet.

Q. How much does he owe you?

A. About ninety dollars.

Q. How much did you advance altogether?

A. About three hundred dollars.

Q. Has there been some personal misunderstanding arise between you and Sakaguchi within the last few days?

A. The first trouble I found out was that Sakaguchi was getting hold of money in the cash register to go out and eat a meal. My wife protested against it strongly, and Sakaguchi did not like it, and that was the first trouble I found out.

Q. When your sister-in-law left her husband in Victoria, did she live with another man?

A. No, not at all.

(Chairman) Q. Do you think there is any possibility of Sakaguchi living with this man?

A. I do not expect it at all.

(Inspector Wyckoff) Q. In fact, you do not want them to live together, do you?

A. No, I would like to have this girl live with him as far as I am concerned. I have found out that he is not the right kind of man. My intention was when he sent for her that he and his wife would take care

of the business, and I and my wife would go back to Japan and spend half a year there. That was what I intended.

(Patterson) Q. Have any of your friends made complaint about Mr. Sakaguchi, to you?

A. Yes, my friends, about four in number, they said Sakaguchi came around and asked money and, of course, they said they would let him have money, he being brother-in-law to me. They said that is the only reason they lent money.

Q. This money was not paid back to them, according to what they told you, and you do not think that he intends to pay it?

A. I do not know. What I heard was, he said to them, "Lend me money until my wife is landed and do not tell Horikawa about it."

(Applicant recalled, testified as follows:)

(Chairman) Q. We spoke to you a while ago about being in Vancouver. You said you hadn't been there. This testimony shows that you were in Victoria. Why didn't you tell about Victoria when we asked you about being in Vancouver?

A. I didn't think very much about it, but I never was in Vancouver, so I said I was not there.

(Inspector Wyckoff) Q. Are your parents living, and, if so, where?

A. My father is dead, but my mother is living. She is in Japan.

Q. Were you living with your mother before you came to the United States?

A. Yes.

(Applicant's husband, recalled, testified:)

(Inspector Wyckoff) Q. How much money did Horikawa send to Japan to be used as expense in bringing your wife to the United States?

- A. I do not know, about \$180. Mr. Horikawa sent money for this woman with the understanding that I pay it back by working for him. I cannot tell just how much it amounted to.
- Q. How much have you repaid him on that debt?
- A. I cannot tell you just how much. Anyway, I worked for him for two and no/100 dollars a day. I worked ten and twelve hours a day.
- Q. How much do you owe him?
- A. I think he said one hundred and fifty dollars.
- Q. How much have you paid back? Haven't you ever had an accounting with Mr. Horikawa to ascertain how much he sent and how much you owe him?
- A. A little over one hudred dollars, I paid back.
- Q. About how much do you still owe him?
- A. About one hundred dollars.
- (Chairman) Q. Have you any money to pay him with?
- A. No.
- Q. How much cash have you available right now?
- A. I have no cash.
- Q. Do you think there is any possibility of your making up with this woman and your living with her and supporting her?
- A. No, I want to send her back to Japan.
- Q. If the stories you heard about your wife's being a bad woman are false, would you then want to live with her?
- A. I do not want her anyway. I will not have anything to do with her.
- (Patterson) Q. What did Horikawa allow you for living expenses out of your wages

of two dollars a day, for clothing, room, board, and expense money?

A. I roomed and board at Horikawa's but he never gave me any cash from the beginning.

Q. How long did you work for Horikawa?

A. I worked for him from August 1st to December 8th, 1919, and during that time, I was sick and laid off about eleven or twelve days.

(Inspector Wyckoff) Q. Did Mr. Horikawa suggest to you that you marry his sister-in-law?

A. Yes.

Q. How long ago was that?

A. Month of May, 1918.

Q. Did he tell you at that time she had been previously married?

A. No, he did not say.

Q. Did he say anything at that time about being anxious to have his sister-in-law come to this country?

A. Yes, he said that.

(Applicant, recalled, testified:)

(Chairman) Q. When did you leave your former husband in Victoria?

A. I think in December, 1917.

Q. And when did you arrive in Japan, from Canada?

A. I arrived the third day of January, 1918, in Yokohama, Japan.

Q. Did Mr. Horikawa come to Victoria when you had trouble with your former husband and try to get you admitted to the United States?

A. He came to see me at that time but he did not tell me to come to the United States but he advised me to go back to Japan.

(Mrs. Sugiye Horikawa, being sworn, testified:)

Q. What is your name?

A. Mrs. Horikawa, Sugiye.

Q. Do you know this girl sitting over in the corner?

A. My sister.

Q. Do you know for what purpose she came to this country?

A. She came to join Sakaguchi, who used to work for us.

Q. What is the trouble that he refused to accept her as his wife. What do you know about this trouble?

A. I do not know what trouble he has with his wife but I had a quarrel with him.

Q. What was the nature of the trouble you had with him?

A. We had one thousand dollars from a Japanese Loan Association. Mr. Sakaguchi wanted us to lend him five hundred dollars out of it. He said he needed capital for gambling and he wanted that five hundred dollars. He said he would repay us two thousand dollars for it. That I didn't want to do, so we had a quarrel. He said, "If I had money, I would not want to stay here."

(Inspector Wyckoff) Q. How old is your sister?

A. Twenty-four, I am not quite certain.

Q. Has she been married before?

A. She was married when she was young.

Q. Where is her first husband?

A. I do not know where he is now.

Q. Did he die?

A. I do not know.

Q. Did your sister leave him?

A. Yes.

Q. Why?

A. All I know is, they could not get along.

Q. Where was she living when she left her husband?

A. She was at Mr. Osawa's. She was studying English under him. I think it was Victoria.



I heard that Mr. Osawa was very kind to her.

Q. When did your sister go from Canada home to Japan?

A. I do not remember but about four years ago, something like that, three or four years ago. Mr. Osawa wrote us to come to see her. I want to see her. I left there but I did not see her when she left Victoria.

(Note by Stenographer) Applicant seemed to be trying to signal witness how to testify.

(Chairman to Applicant) Q. After hearing the testimony and the statement of your husband that he will positively not have anything to do with you, what have you to say?

A. I can not go back to Japan now. If my husband refused to receive me, I would like to ask my sister to receive me.

Q. What kind of work can you do in this country?

A. I can do sewing.

(Chairman) I move the rejection of this alien as a person likely to become a public charge.

(Inspector Wyckoff) I second the motion.

(Patterson) I make it unanimous.

**FINDINGS:** The Board of Special Inquiry finds this alien to be a subject of Japan, of the Japanese race, about twenty-five years of age, going to join her husband (Sakaguchi Kuinobuemon), in the United States, to whom she was married by proxy. This man upon her arrival refused to receive her or support her. In fact, his testimony shows that he is unable to do so, as he is without funds or employment at the present time. The Board, therefore, finds that this woman, the applicant, is a person likely to become a public charge and vote to reject her. The Board further orders that she be returned



to the country whence she came at the expense of the steamship company bringing her here and in the same class of accommodations.

(Statement to Applicant) You have been rejected by this Board of Special Inquiry as a person likely to become a public charge and you have been ordered deported to the country whence you came at the expense of the steamship company bringing you here and in the same class of accommodation. Deportation will exclude you for one year. If you are later found unlawfully within the United States, you will be subject to arrest and deportation. You may appeal from this decision to the Secretary of Labor, Washington, D. C., if you care to do so. And you may also communicate with friends, relatives and acquaintances and employ an attorney if you wish. You may also communicate with the Japanese Consul. Do you wish to appeal?

A. I wish to appeal.

Certified true transcript:

WILBUR F. PATTERSON,

Stenographer.

## MEDICAL CERTIFICATE

Case No. 37235/4-8

In re case of SAKAGUCHI, Hosaye, 24, f.,

Ex SS AFRICA MARU, 12-23-19.

U. S. DEPARTMENT OF LABOR

Immigration Service

Seattle, Wash., February 27, 1920.

At a meeting of the Board of Special Inquiry

convened pursuant to the instructions of the Commissioner, composed of

*Inspectors:*

Frank S. McCullough, Chairman,  
B. A. Hunter.

*Stenographer and Member:*

Wilbur F. Patterson.

*Interpreter:*

Kinza Okajima.

Held for Special Inquiry by Inspector as  
L. P. C.

Medical Certificate:

(See minutes of January 26, 1920, when this applicant was denied admission as a person likely to become a public charge.)

(By order of the Commissioner, the case is now reopened for the purpose of introducing further and new testimony.)

(Applicant, sworn, testified as follows:)

(Chairman) Q. What is your name?

(Applicant) A. Hosaye Sakaguchi.

Q. Are you the person that was rejected here on January 26, 1920?

A. Yes.

Q. And you at that time signified your intention of appealing your case?

A. Yes.

Q. If you are admitted to the United States, what do you expect to do?

A. I do not know what is customary among the American women as to their duties or work. I can do sewing. I want to work sewing.

Q. Whom do you expect to make your home with?

A. I first intended to live with my husband but, as you know the circumstances, so I

want to live with my sister and brother-in-law, and learn the English language—Mr. and Mrs. S. Horikawa.

Q. Is your mother living in Japan?

A. (Witness weeps.) I was told by my brother-in-law that my mother died about five or six days after I left Japan.

Q. Who is now the head of your family in Japan?

A. My elder brother Tsutajiro.

Q. Is he married?

A. Yes.

Q. How many children has he?

A. Five.

Q. What is his occupation?

A. Farmer.

Q. Is he a prosperous farmer and well fixed financially?

A. Yes, he is above the average farmer in the village.

Q. What were you doing in Japan?

A. I was studying and sewing and once in a while I worked and helped my brother in raising silk worms.

Q. Were you able to support yourself in Japan?

A. Yes, I could but it was not necessary for me to do so.

Q. Who supported you?

A. My brother.

Q. Were you at one time in Victoria, B. C.?

A. Yes.

Q. When was that?

A. Four or five years ago.

Q. How long did you live in Victoria, and were you married?

A. I went to Victoria from Japan as a picture bride to join my husband Matsumura, and lived there for about eight months.

Q. Did you live with your husband?

- A. I lived with him for six or seven months and then I went to the Japanese Women's Home and studied under the protection of Reverend Mr. Osawa.
- Q. Did you have some trouble with your husband before leaving him?
- A. Matsumura, my former husband, told me to go to a Japanese store and sell liquor, and he forced me to do his will, and I refused him.
- Q. Was he engaged in the liquor business himself?
- A. No, he was not engaged in the liquor business himself but he was in the liquor store and lived there.
- Q. Did you live at the liquor store also?
- A. Yes, for about two months.
- Q. Did you sell liquors while you were there?
- A. No, I did not. That is why the quarrel started.
- Q. Were there other Japanese women selling liquor at this place?
- A. No, there was only one man selling liquor.
- Q. Were there any prostitutes connected with this liquor store?
- A. No, it was practically a cigar and tobacco store. They sold liquor at the same place.
- Q. Were there any houses of prostitution in that vicinity?
- A. No, it was a kind of suburb of Victoria, out of the center of the city.
- Q. When you went back to Japan, were you deported by the Canadian authorities, or did you leave of your own accord?
- A. I went back of my own accord. I could have stayed.
- Q. Who paid your passage to Japan at that time?
- A. My passage was paid by my brother-in-law Horikawa and my sister, and Reverend

Mr. Osawa arranged everything for me. First, I did not know who paid it.

Q. How long has your sister Mrs. Horikawa been in the United States?

A. About five years. She came to the United States about the same time I came to Victoria.

Q. Did you ever at any time support yourself?

A. Well in a way, I supported myself. I worked as a sewing teacher for three years in Japan. I got wages for it.

Q. If you are admitted to the United States, would you expect your sister and brother-in-law to support you, or would you make an effort to support yourself?

A. I expect to support myself independently after while but for the time being I will have to ask my brother-in-law and sister to assist me.

Q. Have you graduated from any school of any nature in Japan?

A. After I got through the grammar school, I entered the school for teaching sewing and arrangement of artificial flowers, etc., and graduated from the same institution.

Q. Have you a diploma?

A. No, not with me. I have in Japan.

Q. How many years were you in this school?

A. Three or four years.

Q. Did you ever attend any other school?

A. I did not attend any other school but I studied some English under a private teacher.

Q. Can you speak any English at this time?

A. I can not speak well on account of pronunciation but I can read the second and third readers.

(K. Horikawa appears as a witness and, being sworn, testifies as follows:)

Q. What is your full name?

- A. Horikawa Komakichi.
- Q. What is your occupation?
- A. I own a hardware store.
- Q. Are you a relative in any way to the applicant Mrs. Sakaguchi?
- A. She is a sister of my wife.
- Q. Are you acquainted with the facts in her case in regards to her application for admission?
- A. Yes.
- Q. She has come destined to her husband to whom she was married by proxy, did she?
- A. No, she did not come to the United States.
- Q. This time?
- A. This time she came here, yes.
- Q. But for some reason, her husband refused to receive her?
- A. Yes.
- Q. Do you know just why her husband refused to receive and support her?
- A. What I think is that Sakaguchi made lots of debts, and he will not dare to come into my house, and I expect his conscience hurt him. There is no other reason that I can see.
- Q. Is it your intention now to have your sister-in-law join you and make her home in your house?
- A. Yes; then I expect to have her go to school a little while.
- Q. Are you financially able and willing to receive and support her?
- A. Yes.
- Q. Have you any letters of recommendation?
- A. Yes.  
(Presents exhibits numbered from three to seven, five letters of recommendation from wholesale houses and people with whom he is doing business.)
- Q. Are you acquainted with the circumstances



in regard to your sister-in-law's residence in Victoria, B. C., and her return to Japan?

A. Yes.

Q. Who paid the expense of her return trip to Japan?

A. I did. I gave \$150 dollars for her expense to go back to Japan.

Q. Why didn't you attempt to have her join you in the United States at that time?

A. Her desire was to go back to Japan at that time.

Q. Is her mother living in Japan now?

A. No, she is dead.

Q. When did she die?

A. She died five days after Hosaye left Japan.

Q. Have you any evidence to submit as to her mother's death?

A. Yes, I have two letters from her brother telling the particulars of her death?

(These letters are translated by the interpreter and are introduced into the record and marked Exhibits 1 and 2.)

Q. Why did you not bring your wife as a witness in this case?

A. She has been sick for the past three or four days. You know, she is pregnant.

Q. How many children have you.

A. One child.

Q. How old is your child?

A. The child was born April of last year, 1919.

Q. Since the death of the applicant's mother, who is the head of the family in Japan?

A. Yoshikawa Tsutajiro.

Q. What is his occupation?

A. Farmer.

Q. How many children has he?

A. Seven children.

Q. Do you know anything about his financial circumstances?

A. He is a farmer and pretty well off, and then he has a silk worm raising business too.



Q. Have you anything further to say in regard to your wife's sister in case she is admitted?

A. I just wanted to say to you for Hosaye, if she is landed, I will act as her protector and do all I can. For the time being, I will send her to school to learn English and other things, and she will not be in any trouble whatever. I guarantee for her safety.

(Mr. Horikawa presents copies of his individual income tax return showing that he paid \$25.75 income tax for the calendar year 1918, and 39.19 for the year 1920.)

(Inspector Hunter) In view of the fact that this applicant has a proper passport, evidently applied for and issued in good faith, that she has been cured of the disease which caused her first rejection, that she is now destined to a sister and brother-in-law who are shown to be in a financial position to properly care for her, I believe that her present application for admission should be given consideration regardless of the fact that her husband refused to accept and care for her, that the circumstances and justice demand that her case be viewed apart from her relationship to him, and consequently move her admission.

(Member Patterson) This appears to be an unusual case in which the status of the applicant has shifted in the midst of the case.

Said applicant is a subject of Japan, a country that issues limited passports, and between which and the United States there is an agreement by which laborers of Japanese nationality, with certain exceptions, may not properly be granted passports to come to the mainland of the United States. She possesses a passport, issued by the Japanese government, bearing the

wise of the U. S. Consul at Kobe, obtained on the status of her husband, a Japanese subject residing in continental United States, she being of a class known as a "proxy bride." On arrival, she was certified for uncinariasis and was denied admission by a Board of Special Inquiry as a person likely to become a public charge. Before the case could be finally disposed of, the husband, for alleged reasons set forth in the record, positively refused to receive her. Her brother-in-law and sister now came forward with a request that the applicant be admitted to their care and protection; and the case was reopened for further consideration and introduction of additional evidence.

The applicant has but little knowledge of the English language and of American customs; and it is not probable that she could independently earn a living. And while the brother-in-law may be willing and able to support her, still she has no claim upon him which can be legally enforced.

The husband of the applicant, a Japanese subject, was enabled to send for her under the provisions of the Gentlemen's Agreement, which provides that a husband domiciled in the United States may send for his wife even though she be a laborer. It would seem, however, that in the case of a dependent, such as a wife, it necessarily follows that the wife should become and remain a part of the husband's household; and that she would not be entitled to a passport, if a laborer, provided she sought admission with the avowed intention of assuming a status independent of her husband. (But the husband will not receive her.)

She could not have obtained a passport to come to the United States based upon the status

of a brother-in-law or that of a sister domiciled in the United States.

Inasmuch as this woman prior to her departure from Japan would have been properly classed as a laborer under Rule 11, and, as it is apparent that she will continue to be a laborer within the meaning of that rule if she is landed to assume an independent status, it would seem that she is, in truth, a laborer not entitled to a passport; that the passport which she brings is of no effect; and that she is in reality a laborer without a proper passport entitling her to come to the United States.

I, therefore, move that the applicant be denied admission to the United States as a laborer without a proper passport and also as a person likely to become a public charge.

(Chairman) I second Clerk Patterson's motion to reject as a laborer without a proper passport and as a person likely to become a public charge, and I concur in the reasons given by him for rejection.

(Chairman to Alien Applicant) You have been excluded by a majority of this Board of Special Inquiry as a laborer without a proper passport entitling you to come to the United States and also as a person likely to become a public charge. You are ordered returned to the country whence you came at the expense of the steamship company bringing you here and in the same class of accommodations. You, however, have the right of appeal to the Honorable, The Secretary of Labor, Washington, D. C., which appeal will cost you nothing. Deportation will exclude you for one year. Later, if you are found unlawfully within the United States, you will be subject to arrest and deportation. You may consult your friends, rela-

tives, and consul, and employ an attorney if you wish. Do you wish to appeal?

A. Yes, I wish to appeal and my sister and my brother-in-law will attend to it for me.

Certified true transcript:

Stenographer.

## TRANSLATION

December 29.

Mr. Horikawa, Komakichi:

It is getting severely cold, but hope all of you are well. We are well, so, please have ease of mind.

Mother passed away on the 12th of this month at 8:30 a. m. It occurred after Hosoye started on her journey to America, and from the fear that the sad news, if given her immediately upon her arrival there, would break her heart badly, we have withheld it from you until now. We, brothers and sisters, were with her constantly and nothing was left undone to comfort her, and at last, she passed away peacefully on the laps of brother and myself. Brother Hidekiyo got a long vacation and was able to be with her during her illness.

We had the funeral on the 13th day at 2 p. m. 61st Regiment sent us flowers, and thirty soldiers took part, while nearly all the villagers did everything they can for us.

We know Sugiye and Hosoye will feel sad because they could not see her passed away, but, they must not feel so, as we, brothers, were with her until the end.

All of you must take a good care of yourselves at this time of year.

(sgd) Yoshikawa, Tsutajiro

It is hereby certified that the foregoing is a correct and true translation of the Japanese letter, marked "AY", to the best of my knowledge and ability.

(sgd) Kinya Okyima,  
Japanese Interpreter.

Exhibit No. 1.

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## TRANSLATION

Brother Horikawa:

Are my sisters well? Hope all of you have welcomed the spring-time of a foreign country.

I am well and working, so, please have ease of mind.

On December 12, 8th year of Taisho, at 8:30 a.m. mother passed away, leaving behind her love, charity and longing hearts, and her remain was cremated on the 13th day at 1:30 p.m. Mother was asking how you and my sister are. She passed away on the laps of Tsutajiro and myself.

My happiness and pleasure were to visit home and see her, but all I can do now is to burn incense and read the Bible. Younger sister left mother in illness and became a heroine of the sea, and Tsutajiro is the only loved one at our home.

Brother Horikawa and Sister Horikawa, I can now do all my military duties whole-heartedly and serve our country honorably, having nothing to drag me. Hope you will accomplish your great desire and come home with gladness.

The day of Father's death, January 5.

The day of Mother's death, December 12.

The day of Bro. Shinroku's death, 21.

The day of Mother of Mitsu's death, 1.

Sister Komaye's address is: Care Mr. Matsutaro Matsuno 1-30 Kotobukicho, Yokohama.



Sister Hosoye left Yokohama on "Africa Maru" on December 7th, being five days before mother's death. Please take care of sister Hosoye and let us know as soon as she arrives there.

From the far-away home beyond the seas and lands, I am praying for the safety of you and sisters.

December 21, 8th year of Taisho (1919).

(sgn) Yoshikawa, Hidekiyo.

To Brother and Sister Horikawa.

Exhibit No. 2.

It is hereby certified that the foregoing is a true and correct translation of the Japanese letter, marked "XY."

(sgd) Kinya Okajima,  
Japanese Interpreter.

Seattle, Wash., Jan. 29, 1920.

# TO WHOM IT MAY CONCERN:

We are please to state that we have known Mr. K. Horikawa, who has a hardware store at 417 Maynard Avenue, for approximately a year.

In our business dealings with this gentleman we have always found him a man of his word, and, further, that he pays his obligations very promptly.

We trust this information may be of some service.

Very truly yours,

SEATTLE HARDWARE COMPANY

(sgd) C. P. King,  
Credit Department.

Dictated by C. P. King.  
SS.

Exhibit No. 3.



Seattle, Wash., Jan. 28, 1920.

In reply refer to S. A. R.

TO WHOM IT MAY CONCERN:

K. Horikawa, conducting a hardware business at 417 Maynard Avenue, has been a customer of ours for nearly a year, during which time he has cared for his account very promptly and satisfactorily, and we are pleased to do business with him. We consider him very energetic, reliable and a very good type of man in business and personally, and take pleasure in recommending him.

M. SELLER & CO.

(sgd) S. A. Rosenfeld, Sec'y.

NP.

Exhibit No. 4.

Seattle, Wash., Jan. 30, 1920.

TO WHOM IT MAY CONCERN:

Mr. K. Horikawa is known to us for several years, conducting a hardware store at 417 Maynard Avenue. We have never questioned his honesty, have always found him prompt in meeting his obligations.

We would not hesitate in granting him any favor he may ask.

Respectfully,

SCHWABACHER HARDWARE CO.

(sgd) Henry J. Lochow.

HJL:M

Exhibit No. 5.

## TO WHOM IT MAY CONCERN:

This is to certify that I have known Kormackicki Horikawa since 1917. His business has increased since that time from a small shop, where he was doing key repairing, to where he now has a hardware store and doing a good business. Furthermore, he has a considerable income from an invention known as the "Ideal Window Lock." I have known him to take in upwardly of \$10.00 a day from this invention. I have found him conscientious and straightforward in all of my business dealings and can recommend him.

Dated this 31st day of January, 1920, at Seattle, Washington.

(sgd) RICHARD J. COOK.

Exhibit No. 6.

Jan. 31, 1920.

## TO WHOM IT MAY CONCERN:

Mr. K. Horikawa, proprietor of the Horikawa Hardware Company, 417 Maynard Ave., Seattle, has had an account at this bank for the past nine years, his checking balance averaging \$500.00. This bank takes great pleasure in recommending him as a man of business ability and integrity. He bears an excellent reputation in Seattle as a man of his word, his business and private life is far above the average.

SPECIE BANK OF SEATTLE,  
(sgd) M. Uyeda.

Exhibit No. 7.